

NOTE:

The attached pages are corrected pages and should be substituted for the corresponding pages in the record.

26 AUGUST 1947

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Of  
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The proceedings were begun at 1300.

THE PRESIDENT: I refer you to the proceedings in chambers on 18 August 1947, page 7. I said there that character evidence is not evidence directed to an issue with the British. However, technically, evidence of general character can be given, but that seldom happens.

I refer to R. V. Rowton, 10 Cox C.C. 25, where the Lord Chief Justice said: "It seldom happens that evidence is called to the character of a prisoner when those who represent the prisoner are aware that the character will be liable to be rebutted."

In my experience, evidence of general character, and that is all that can be given, has never been resorted to to establish innocence, although clearly it is technically receivable. Evidence of general character would simply be that the prisoner's general reputation was good.

In the case of the accused in this trial it may be difficult to see how evidence of general character could give any assistance on the determination of any of the issues; but a majority of the Judges may take a different view and may be prepared to receive evidence of general character in the limited sense reputation.

1 the principal rules of international law which are  
2 taught to the Armies and Navies. There is no contest  
3 about that. This doesn't establish any more.

4 MR. ROBERTS: If the Court will take judicial  
5 notice that these precepts of international law were  
6 taught at the Japanese naval college, and then we will  
7 be satisfied that this witness' testimony to that  
8 effect will be unnecessary.

9 THE PRESIDENT: I suppose the prosecution's  
10 case is not that it was not taught but that it was not  
11 acted upon. But, we would like to hear from Mr.  
12 Tavenner with a view to shortening this.

13 MR. ROBERTS: May I just point out that my  
14 reference has been to Section 7 of the Indictment  
15 which states that, "The educational systems, civil,  
16 military and naval, were used to inculcate a spirit  
17 of totalitarianism, aggression, desire for war,  
18 cruelty and hatred of potential enemies."

19 MR. TAVENNER: If the Tribunal please, the  
20 prosecution does not contest the assertion by  
21 counsel that international law was taught in the mili-  
22 tary and naval colleges.

23 THE PRESIDENT: We are overdue on the recess.  
24 We will adjourn until half past one.  
25

(Whereupon, at 1202, a recess was taken.)



1 When military personnel came to the Island in March  
2 1944 my own house and half of the company's structures  
3 were turned over to them because of lack of barracks.  
4 Even then part of the troops had to live in tents.

5 "5. I know nothing about restrictions on  
6 foreigners visiting Saipan, Tinian, and the nearby  
7 Islands. I do know that the Nanyo Trading Company  
8 which had an office in Guam pulled out in 1933 because  
9 of numerous trade restrictions and that in 1936, I  
10 believe, Japanese were prohibited by American  
11 authorities from going there."

12 You may cross-examine.

13 THE PRESIDENT: Brigadier Quilliam.

14 BRIGADIER QUILLIAM: May it please the  
15 Tribunal, we do not wish to cross-examine the witness.

16 MR. ROBERTS: May the witness be excused on  
17 the usual terms?

18 THE PRESIDENT: He is excused accordingly.

19 (Whereupon, the witness was excused.)

20 MR. ROBERTS: We now call the witness  
21 Nisaburo MUKAWA.  
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1 accused HIROTA, had declared that the Washington  
2 Treaty was going to be abrogated even if the other  
3 nations agreed to Japan's proposal?" Your answer  
4 to that question was "Yes."

5 I will ask you now if you fully understood  
6 the question as translated and whether your answer  
7 was correct?

8 THE PRESIDENT: You cannot get him to give  
9 another answer that way in re-examination. As I have  
10 said repeatedly, and as we all know, you can clear up  
11 things that are left obscure by the cross-examination.  
12 But, nothing has been left obscure by the cross-  
13 examination. If something that Mr. Carr said was  
14 wrongly translated into Japanese and the answer was  
15 given to this wrong translation, then we can have it  
16 corrected now, but there is a way of doing that.

17 MR. BRANNON: I was merely informed that the  
18 question was misunderstood by the witness and that he  
19 wished to correct his answer, and I was only doing it  
20 for the purpose of informing the Tribunal as to the  
21 correct set of facts.  
22

23 THE PRESIDENT: That is not within the scope of  
24 re-examination, but it would be possible for this Court,  
25 not being bound by any technical rules, to allow another  
set of questions. But, it would be a very dangerous

1 precedent.

2 MR. BRANNON: I have no desire to press  
3 the matter.

4 MR. HANAI: I am counsel HANAI. I wish to  
5 conduct cross-examination on behalf of the accused  
6 HIROTA.

7 THE PRESIDENT: It is too late. It would infer  
8 re-examination. You should have followed Mr. Comyns  
9 Carr or Major Furness, who, if he did anything, cross-  
10 examined, although apparently nothing prejudicial to  
11 his client was said by the witness. You can only ask  
12 questions now with the express permission of the  
13 Court, and, as I said before, that would be a dangerous  
14 precedent. You have got to be vigilant in the conduct  
15 of your client's case.

16 MR. HANAI: It will be only a very brief  
17 cross-examination, your Honor. May I have the Tribunal's  
18 permission?

19 THE PRESIDENT: I think a majority are pre-  
20 pared to hear you. Proceed to put your questions.

21 CROSS-EXAMINATION

22 BY MR. HANAI:

23 Q Now, in answer to a question put to you by  
24 the prosecutor if you know whether or not HIROTA and  
25 OKADA declared that Japan was prepared to withdraw from



1 S U S U M U N I S H I U R A, called as a witness in  
2 behalf of the defense, being first duly sworn,  
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. BLEWETT:

6 Q Will you please state your name and address?

7 A My name is NISHIURA, Susuma. My address is  
8 No. 560, Ome, Ome-Cho, Nishitama-Gun, Tokyo.

9 MR. BLEWETT: May witness be handed document  
10 number 1690?

11 (Whereupon, a document was handed to  
12 the witness.)

13 Q Is that your affidavit?

14 A Yes.

15 Q Are the contents true and correct?

16 A Yes.

17 MR. BLEWETT: I offer in evidence defense docu-  
18 ment 1690.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Defense document 1690 will  
21 receive defense exhibit number 3023.

22 (Whereupon, the document above referred  
23 to was marked defense exhibit No. 3023.)

24 MR. BLEWETT: I shall read the exhibit 3023:

25 "1. I was serving in the business concerning

1 the military preparations in the Military Affairs Sec-  
2 tion, the Military Affairs Bureau, the War Ministry,  
3 from October 1931 to August 1941, except the period from  
4 April 1934 to February 1937 during which I was residing  
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1 J U J I E N O M O T O, recalled as a witness on  
2 behalf of the defense, having been previously  
3 sworn, testified through Japanese interpreters  
4 as follows:

5 DIRECT EXAMINATION

6 MR. ROBERTS: The witness has previously exam-  
7 ined the document and I believe we have covered the  
8 preliminary steps. I read Exhibit 3011, beginning at  
9 page 24:

10 "Overtures for preliminary negotiations by  
11 way of preparation for the naval disarmament confer-  
12 ence scheduled for 1935 were received from Sir John  
13 Simon, British Secretary of Foreign Affairs, on  
14 17 May, 1934. The Japanese Government accepted forth-  
15 with and designated Mr. MATSUDAIRA, Ambassador to Great  
16 Britain, as delegate. Negotiations were started by  
17 the representatives of U.S.A., Great Britain and Japan  
18 on 18 June; but as the talks, instead of being confined  
19 to the question of procedure for the conference to be  
20 held the following year, began to get involved deeply  
21 in the substance of naval limitation, they were discon-  
22 tinued for a time on 12 July, with the understanding  
23 that they should be reopened on 23 October. On 7 Sept-  
24 ember the Japanese Government designated Rear-Admiral  
25 Isoroku YAMAMOTO (promoted to Vice-Admiral while in

1 London) as an additional delegate to the Preliminary  
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1 S H I G E R U S A W A D A, called as a witness in  
2 behalf of the defense, being first duly sworn,  
3 testified through Japanese interpreters as follows:

4 MR. BLEWETT: May the witness be shown the  
5 affidavit, please, defense document No. 1523?

6 (Whereupon, a document is shown  
7 to the witness.)

8 DIRECT EXAMINATION

9 BY MR. BLEWETT:

10 Q Is that your affidavit?

11 A Yes, it is. But there is one correction I  
12 would like to make in the text.

13 MR. BLEWETT: You may do so.

14 THE WITNESS: On page 1 in the English text,  
15 the fourth line of paragraph 2, the words, "I went,  
16 with the permission of the Chief and the approval of  
17 the War Minister, to Hongkong", "to Hongkong" should be  
18 corrected to "at Hongkong"; this should be "I was at  
19 Hongkong," instead of "I went to Hongkong."

20 MR. BLEWETT: I offer in evidence defense docu-  
21 ment No. 1523.

22 THE PRESIDENT: Admitted on the usual terms.

23 THE CLERK OF THE COURT: Defense document No.  
24 1523 will receive defense Exhibit No. 3013.

25 (Whereupon, the document above re-



ferred to was marked Exhibit No. 3013 and re-

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1 THE PRESIDENT: Admitted on the usual terms.  
2 Please give them a number.

3 CLERK OF THE COURT: Prosecution documents  
4 837-B, C, and D will be marked exhibits 628-B, C, and  
5 D.

6 (Whereupon, the documents above re-  
7 ferred to were marked prosecution exhibits  
8 628-B, C, and D, respectively, and received  
9 in evidence.)

10 MR. BLEWETT: I call the witness SATO, Take-  
11 goro.

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1 certificates. We have not been supplied with them,  
2 and you have not read them.

3 MR. BLEWETT: This affidavit, sir, simply  
4 shows that No. 2, which was read as an opinion of  
5 this official of the Foreign Office, is not an  
6 official document. At least there is some doubt  
7 about it.

8 THE PRESIDENT: Can he add to his reasons for  
9 thinking that? He has told us on what he bases that  
10 belief.

11 MR. BLEWETT: I think it has been covered  
12 fully, sir.

13 THE PRESIDENT: Mr. Tavenner.

14 CROSS-EXAMINATION

15 BY MR. TAVENNER:

16 Q Were you shown yesterday afternoon or this  
17 morning the three certificates that I introduced in  
18 evidence yesterday?

19 A Yes.

20 Q Those certificates were signed by your superior,  
21 Mr. HAYASHI, were they not?

22 A Yes.

23 Q You are his assistant?

24 A That is so.

25 Q Are they correct or not?



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1 THE MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Comyns Carr.

4 MR. COMYNS CARR: May it please the Tribunal,  
5 with regard to the paragraph in the middle of page 3  
6 of the affidavit, beginning with, "The Navy had been  
7 consistently opposed to our country entering into  
8 an alliance with Germany and Italy," the prosecu-  
9 tion desires to refer the Tribunal to the following  
10 exhibits.

11 THE PRESIDENT: I do not recall excusing  
12 the witness.

13 (Whereupon, the witness resumed the  
14 stand.)

15 THE PRESIDENT: Yes, Mr. Carr, you may pro-  
16 ceed.

17 MR. COMYNS CARR: Your Honor, my friend,  
18 Mr. BANNO, says he desires to ask some further ques-  
19 tions in direct examination.

20 THE PRESIDENT: Mr. BANNO.

21 MR. SHIMANOUCI: I am counsel SHIMANOUCI.

22 DIRECT EXAMINATION (Continued)

23 BY MR. SHIMANOUCI:

24 Q To what extent was the witness connected  
25 with the drafting of operations plans of the Navy

## AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International  
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: With the Tribunal's permission,  
the accused ITAGAKI is absent from the court-room,  
conferring with his counsel. He will be absent during  
the whole of the afternoon.

Mr. Blewett.

MR. BLEWETT: I call the witness HIGASA, Ken.

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1 ing of troops in Indo-China was chiefly to maintain the  
2 stability of that country. However, it did assist oper-  
3 ations against China and help make peaceful commerce  
4 possible. The stationing of troops there was for de-  
5 fensive military protection and was an appropriate  
6 measure of national defense, I believe."

7 \* \* \* \*

8 We call the attention of the Tribunal to pros-  
9 ecution exhibit No. 809 which seems to have been relied  
10 upon to a great extent in proving military preparations.

11 From Page 9011 of the Record I read this por-  
12 tion of that exhibit to indicate the date on which  
13 these preparations took place:

14 "Available references documenting these prep-  
15 arations are as yet fragmentary, especially in respect  
16 to specialized training operations in tropical warfare  
17 reputed to have taken place throughout the summer and  
18 fall of 1941. As the date of the opening of hostilit-  
19 ies is approached, however, pertinent references grow  
20 more plentiful, until for the month of November 1941 it  
21 is possible to piece together a fairly comprehensive  
22 picture of Japanese military preparations."

23 It is also respectfully submitted that accord-  
24 ing to the same exhibit No. 809 no general mobiliza-  
25 tion of the military took place in Japan until October



1 .1941.

2           Reference is also made to page 9050 of the  
3 Record, a quotation from the same exhibit, regarding  
4 so-called land operation practice; this comment is  
5 made: "Little, if any, military advantage resulted  
6 from those operations, and it would now appear that  
7 they had been intended solely for training....."

8           I call the witness, NISHIMURA, Susumu.

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